

REMARKS

Claims 1-3, 5-16, and 18-22 are pending in the present application. Applicant hereby requests entry of this Amendment and further consideration of the present application in view of the following remarks.

In the following discussion, Applicant first provides a brief history of the present application to highlight Applicant's and the Office's mutual interest in the expedited resolution of this case.

The first Non-Final Office Action (NFOA) was issued on November 22, 2004. Following the Final Office Action (FOA) dated June 2, 2005, an Appeal was conducted after which a first RCE was filed. A second FOA was issued on August 1, 2006 after which a second Appeal was conducted. A second RCE was filed on July 2, 2007, after which an additional NFOA and FOA were issued. A third RCE was filed on July 21, 2008 following by a further NFOA and FOA. Finally, a fourth RCE was filed on October 13, 2009 which brings us to the current NFOA.

Should the Examiner have any questions or concerns that might be efficiently resolved by way of a telephonic interview, the examiner is invited to call Applicants' undersigned attorney at 206-332-1392.

Rejections under 35 USC §112 ¶ 1

Claims 6 and 19 stand rejected under 35 U.S.C. §112, ¶1, as failing to comply with the enablement requirement. Without conceding to the propriety of the rejection, Applicant has canceled claims 6 and 19, rendering this rejection moot. Applicant requests withdrawal of this rejection.

Rejections under 35 USC §112 ¶ 4

Claims 5 and 18 stand rejected under 35 U.S.C. §112, ¶4, as the Office Action contends that claims 5 and 18 do not limit the independent claim upon which they depend. Applicant has canceled claims 5 and 18, rendering this rejection moot. Applicant requests withdrawal of this rejection.

Claims 6 and 19 stand rejected under 35 U.S.C. §112, ¶4, as the Office Action contends that claims 6 and 19 do not limit the independent claim upon which they depend. Applicant has canceled claims 5 and 18, rendering this rejection moot. Applicant requests withdrawal of this rejection.

Rejections under 35 USC §103(a)

Claims 1, 2, 5-10, 12-13, 16, 18-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen (US 6,957,041) and further in view of Bolleman (US 6,286,063) and further in view of APA (applicant's admitted prior art in US PG PUB 20050071240, para 0020). Insofar as this ground of rejection pertains to the claims as amended, Applicant traverses this rejection and requests reconsideration thereof.

Christensen is generally directed to a system that provides a radio broadcast listener with the ability to purchase media content such as music or speech while listening to the radio. In the system of Christensen, data such as song title and artist, author or publisher and the IP address for the location where the digital version of the content is transmitted using the RBDS/RDS data stream.

In contrast, amended claim 12 recites “wherein the information can be determined when the broadcast media does not include explicit information pertaining to purchase of the goods and services.” It is clear that the system of Christensen includes specific information pertaining to the purchase of the media in the broadcast stream. See, for example:

- col. 4:64-65: “radio text information or messages displaying purchase options”
- col. 4: 67-col.5: 1: “instructions for the location of downloadable audio”
- col. 5: 5-8: “a location where the song, editorial news broadcast, collection of songs, or other program material can be downloaded or purchased, and the purchase price for the song”
- col. 6: 7-14: “the APS server 144 incorporates station call letter information, and an audio download location such as IP address and a file name into a data stream that is inserted into a radio station's broadcast using RBDS/RDS or similar technology”

As indicated in paragraph 0025 of Applicant's specification, which provides support for the amendments, "if the broadcast media is a radio broadcast, each song does not have to include an advertisement of its identity or even state that it is available for purchase to the user of the broadcast receiver 14."

For at least the above reasons, Applicants submit that the combination of Christensen, Bolleman and APA does not teach or suggest claim 12. The Examiner has rejected independent claims 1 and 9 for similar reasons and Applicants submit that claims 1 and 9 are not taught by the cited combination for similar reasons. Applicants submit that dependent claims 2, 7-8, 10, 13, 16, and 20-22 are allowable at least by virtue of their dependency on an allowable base claim.

Claims 3, 11 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen in view of Moskowitz et al. (U.S. Pub. No. 20020116261). Applicant respectfully traverses the rejection and requests reconsideration.

For at least the grounds argued earlier with respect to the patentability of independent claims 1, 9 and 12, from which claims 3, 11 and 15 ultimately depend, claims 3, 11 and 15 are not obvious in view of Moskowitz. For at least the above reasons, Applicants respectfully request withdrawal of the rejection of claims 3, 11 and 15.

Conclusion

In view of the foregoing remarks, Applicant respectfully submits that Claims 1-3, 7-16, and 20-22 are in condition for allowance and entry of the present amendment and notification to that effect is earnestly requested. If necessary, the Examiner is invited to telephone Applicant's attorney (206-332-1392) to facilitate prosecution of this application.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees that may be required, including any necessary extensions of time, which are hereby requested to Deposit Account No. 233050.

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